IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Crl.MC.No. 2082 of 2007()

CC.1872/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

.....

PETITIONER: 4TH ACCUSED

THOMAS ANIYANKUNJU,
THONDUTHARAYIL HOUSE,
PENNUKKARA P.O., CHENGANNUR,
ALAPPUZHA.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP

RESPONDENTS: STATE & COMPLAINANT

---

1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. CIRCLE INSPECTOR OF POLICE,
CENTRAL POLICE STATION,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 2082 of 2007

- -

Dated this the 28th day of June, 2007

O R D E R

The petitioner is the 4th accused. He faces indictment for offences punishable, inter alia, under Section 365 r/w. 149 I.P.C. Consequent to the inability/failure of the petitioner to appear before the learned Magistrate, the learned Magistrate has now issued a warrant of arrest to procure the presence of the petitioner. According to the petitioner, he is absolutely innocent. There was no wilful default on his part in not appearing before the learned Magistrate. The petitioner is willing to appear before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not

consider the applications for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

tm